

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 731

Introduced by Senators Torlakson, Ashburn, Cedillo, Ducheny, Kehoe, Lowenthal, Machado, Maldonado, Margett, Murray, Runner, and Soto

February 22, 2005

An act to amend Section ~~66536.1~~ of the Government Code 44015 of the Health and Safety Code, to amend Section 5103 of the Public Contract Code, to amend Sections 5090.02, 5090.09, and 5090.35 of the Public Resources Code, to amend Section 21706 of the Public Utilities Code, to amend Section 140.3 of the Streets and Highways Code, and to amend ~~Section 4601~~ Sections 285, 2250, 4601, and 24602 of the Vehicle Code, relating to ~~transportation~~ state and local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 731, as amended, Torlakson. ~~Transportation.~~ *State and local government.*

(1) Existing law, the Metropolitan Transportation Act, creates the Metropolitan Transportation Commission as a regional agency to provide comprehensive regional transportation planning for the San Francisco Bay area counties. Under existing law, the Legislature has made findings that the commission has agreed to create a joint policy committee with the Association of Bay Area Governments, and specifies that the membership of the joint committee include at least one representative from each of the 9 regional counties.

This bill would require the joint committee to include one representative appointed by the Secretary of the Business, Transportation and Housing Agency.

(2)

(1) Existing law requires motor vehicle dealers to be responsible for having a smog check inspection performed on motor vehicles offered for retail sale, except as specifically provided.

This bill would modify this provision.

(2) Existing law requires the bidder, in a court proceeding to obtain relief from a bid for a public contract, to demonstrate to the satisfaction of the court that, among other things, a mistake was made and that the bidder gave the public entity written notice of the mistake within 5 days after the opening of the bids.

This bill would exclude Saturdays, Sundays, and state holidays from that 5-day period.

(3) Existing law, the Off-Highway Motor Vehicle Recreation Act of 2003, until January 1, 2007, provides for the acquisition, operation, and funding of a system defined as the state vehicular recreation areas, the California Statewide Motorized Trail, designated areas within the state park, and areas supported by a specified off-highway vehicles grant program.

This bill would make technical, conforming changes to certain provisions of the act.

(4) Existing law requires applications for funding from the Aeronautics Account in the State Transportation Fund to be processed in accordance with the procedures adopted by the California Transportation Commission for processing applications by local entities for projects included in the state transportation improvement program.

This bill would revise the process used by the commission for funding projects from the Aeronautics Account.

~~(3)~~

(5) Existing establishes the Equipment Service Fund in the State Treasury and continuously appropriates all money in the fund to the Department of Transportation to pay for mobile equipment services. Existing law provides that if the unencumbered balance remaining in the fund at the end of any fiscal year is more than 25% of the total annual appropriation made to the fund under the most recent Budget Act, the unencumbered balance is required to be refunded to programs that were assessed mobile equipment service charges during that fiscal year, as specified.

This bill would instead provide that if the balance remaining in the fund at the end of any fiscal year exceeds the amount allowable for billed central services under the Federal Office of Management and

Budget Circular A-87, the balance is required to be refunded to those programs assessed mobile equipment service charges during that fiscal year treated consistent with that circular.

~~(4)~~

(6) Existing law specifies the membership, by rank, of the California Highway Patrol, and includes “deputy chiefs” among the ranks.

This bill would change the reference to “deputy chiefs” to “chiefs.”

(7) Existing law defines a motor vehicle “dealer” as a person who sells a vehicle subject to registration under the Vehicle Code, a motorcycle or all-terrain vehicle subject to identification under that code, or a trailer subject to identification pursuant to that code.

This bill would add to the list of vehicles sold by dealers a snowmobile subject to identification under that code.

(8) Existing law authorizes the Department of Motor Vehicles to accept registration fees not more than 60 days prior to the expiration of the current registration or certification for a vehicle.

This bill would instead authorize the department to accept those registration fees not more than 75 days prior to the expiration of the current registration or certification for a vehicle.

(9) Existing law authorizes a vehicle to be equipped with not more than 2 red fog tail lamps mounted not lower than 15 inches.

This bill would authorize the tail lamps to be mounted not lower than 12 inches.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 66536.1 of the Government Code is~~
- 2 ~~amended to read:~~
- 3 ~~66536.1. (a) The joint policy committee shall prepare a~~
- 4 ~~report analyzing the feasibility of consolidating functions~~
- 5 ~~separately performed by ABAG and MTC. The report shall be~~
- 6 ~~reviewed and approved by MTC and the ABAG executive board~~
- 7 ~~and submitted to the Legislature by January 1, 2006.~~
- 8 ~~(b) The combined membership of the joint policy committee~~
- 9 ~~shall include at least one representative from each of the nine~~
- 10 ~~regional counties: Alameda, Contra Costa, Marin, Napa,~~
- 11 ~~Sonoma, San Mateo, San Francisco, Santa Clara, and Solano.~~

~~The joint policy committee shall also include one representative appointed by the Secretary of the Business, Transportation and Housing Agency.~~

~~(e) The joint policy committee shall coordinate the development and drafting of major planning documents prepared by ABAG, MTC, and the Bay Area Air Quality Management District, including reviewing and commenting on major interim work products and the final draft comments prior to action by ABAG, MTC, and the Bay Area Air Quality Management District. These documents include, but are not limited to, the following:~~

~~(1) Beginning with the next plan update scheduled to be adopted in 2008, the regional transportation plan prepared by MTC and described in Section 66508 of the Government Code.~~

~~(2) The ABAG Housing Element planning process for regional housing needs pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.~~

~~(3) The Bay Area Air Quality Management District's Ozone Attainment Plan and Clean Air Plan.~~

SECTION 1. Section 44015 of the Health and Safety Code is amended to read:

44015. (a) A licensed smog check station shall not issue a certificate of compliance, except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

(2) A vehicle that, prior to repairs, has been initially identified by the smog check station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2.

(3) A vehicle described in subdivision (c).

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

(c) (1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity authorized to perform referee functions for a vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the

1 applicable repair cost limit established under Section 44017 and
2 that every defect specified by paragraph (2) of subdivision (a) of
3 Section 43204, and by paragraphs (2) and (3) of subdivision (a)
4 of Section 43205, has been corrected. A repair cost waiver issued
5 pursuant to this paragraph shall be accepted in lieu of a certificate
6 of compliance for the purposes of compliance with Section
7 4000.3 of the Vehicle Code. No repair cost waiver shall exceed
8 two years' duration. No repair cost waiver shall be issued until
9 the vehicle owner has expended an amount equal to the
10 applicable repair cost limit specified in Section 44017.

11 (2) An economic hardship extension shall be issued, upon
12 request of a qualified low-income motor vehicle owner, by an
13 entity authorized to perform referee functions, for a motor
14 vehicle that has been properly tested but does not meet the
15 applicable emission standards when it is determined that no
16 adjustment or repair can be made that will reduce emissions from
17 the inspected motor vehicle without exceeding the applicable
18 repair cost limit, as established pursuant to Section 44017.1, that
19 every defect specified in paragraph (2) of subdivision (a) of
20 Section 43204, and in paragraphs (2) and (3) of subdivision (a) of
21 Section 43205, has been corrected, that the low-income vehicle
22 owner would suffer an economic hardship if the extension is not
23 issued, and that all appropriate emissions-related repairs up to the
24 amount of the applicable repair cost limit in Section 44017.1
25 have been performed.

26 (d) No repair cost waiver or economic hardship extension
27 shall be issued under any of the following circumstances:

28 (1) If a motor vehicle was issued a repair cost waiver or
29 economic hardship extension in the previous biennial inspection
30 of that vehicle. A repair cost waiver or economic hardship
31 extension may be issued to a motor vehicle owner only once for
32 a particular motor vehicle belonging to that owner. However, a
33 repair cost waiver or economic hardship extension may be issued
34 for a motor vehicle that participated in a previous waiver or
35 extension program prior to January 1, 1998, as determined by the
36 department. For waivers or extensions issued in the program
37 operative on or after January 1, 1998, a waiver or extension may
38 be issued for a motor vehicle only once per owner.

39 (2) Upon initial registration of all of the following:

40 (A) A direct import motor vehicle.

1 (B) A motor vehicle previously registered outside this state.

2 (C) A dismantled motor vehicle pursuant to Section 11519 of
3 the Vehicle Code.

4 (D) A motor vehicle that has had an engine change.

5 (E) An alternate fuel vehicle.

6 (F) A specially constructed vehicle.

7 (e) Except as provided in subdivision (f), a certificate of
8 compliance or noncompliance shall be valid for 90 days.

9 (f) ~~Except~~ *Excluding any vehicle whose transfer of ownership*
10 *and registration is described in subdivision (d) of Section 4000.1*
11 *of the Vehicle Code, and except as otherwise* provided in
12 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle
13 Code, a licensed motor vehicle dealer shall be responsible for
14 having a smog check inspection performed on, and a certificate
15 of compliance or noncompliance issued for, every motor vehicle
16 offered for retail sale. A certificate issued to a licensed motor
17 vehicle dealer shall be valid for a two-year period, or until the
18 vehicle is sold and registered to a retail buyer, whichever occurs
19 first.

20 (g) A test may be made at any time within 90 days prior to the
21 date otherwise required.

22 *SEC. 2. Section 5103 of the Public Contract Code is amended*
23 *to read:*

24 5103. The bidder shall establish to the satisfaction of the
25 court that:

26 (a) A mistake was made.

27 (b) He or she gave the public entity written notice within five
28 *working days, excluding Saturdays, Sundays, and state holidays,*
29 *after the opening of the bids of the mistake, specifying in the*
30 *notice in detail how the mistake occurred.*

31 (c) The mistake made the bid materially different than he or
32 she intended it to be.

33 (d) The mistake was made in filling out the bid and not due to
34 error in judgment or to carelessness in inspecting the site of the
35 work, or in reading the plans or specifications.

36 *SEC. 3. Section 5090.02 of the Public Resources Code is*
37 *amended to read:*

38 5090.02. (a) The Legislature finds that off-highway motor
39 vehicles are enjoying an ever-increasing popularity in California
40 and that the indiscriminate and uncontrolled use of those vehicles

1 may have a deleterious impact on the environment, wildlife
2 habitats, native wildlife, and native flora.

3 (b) The Legislature hereby declares that effectively managed
4 areas and adequate facilities for the use of off-highway vehicles
5 and conservation and enforcement are essential for ecologically
6 balanced recreation.

7 (c) Accordingly, it is the intent of the Legislature that:

8 (1) Existing off-highway motor vehicle recreational areas,
9 facilities, and opportunities be expanded and be managed in a
10 manner consistent with this chapter, in particular to maintain
11 sustained long-term use.

12 (2) New off-highway motor vehicle recreational areas,
13 facilities, and opportunities be provided and managed pursuant to
14 this chapter in a manner that will sustain long-term use.

15 (3) When areas or trails or portions thereof cannot be
16 maintained to appropriate established standards for sustained
17 long-term use, they shall be closed to use and repaired, to prevent
18 accelerated erosion. Those areas shall remain closed until they
19 can be managed within the soil-loss conservation standard or
20 shall be closed and restored.

21 (4) Prompt and effective implementation of the Off-Highway
22 Motor Vehicle Recreation Program by the Division of
23 Off-Highway Motor Vehicle Recreation shall have an equal
24 priority among other programs in the department.

25 (5) Off-highway motor vehicle recreation be managed in
26 accordance with this chapter through financial assistance to local
27 government and joint undertakings with agencies of the United
28 States.

29 *SEC. 4. Section 5090.09 of the Public Resources Code is*
30 *amended to read:*

31 5090.09. "System" means the state vehicular recreation areas,
32 the California Statewide Motorized-trail Trail, ~~designated~~ areas
33 and trails within the state park-units system, and areas supported
34 by the grant program.

35 *SEC. 5. Section 5090.35 of the Public Resources Code is*
36 *amended to read:*

37 5090.35. (a) The protection of public safety, the appropriate
38 utilization of lands, and the conservation of land resources are of
39 the highest priority in the management of the state vehicular
40 recreation areas; and, accordingly, the division shall promptly

1 repair and continuously maintain areas and trails, anticipate and
2 prevent accelerated and unnatural erosion, and restore lands
3 damaged by erosion to the extent possible.

4 (b) (1) The division, in consultation with the United States
5 Natural Resource Conservation Service, the United States
6 Geological Survey, the United States Forest Service, the United
7 States Bureau of Land Management, and the California
8 Department of Conservation shall update the 1991 Soil
9 Conservation Guidelines and Standards to establish a generic and
10 measurable soil conservation standard by March 1, 2006, at least
11 sufficient to allow restoration of off-highway motor vehicle areas
12 and trails. The 1991 Soil Conservation Guidelines and Standards
13 shall remain in effect until they are updated pursuant to this
14 subdivision.

15 ~~(c) The division shall monitor the condition of soils and~~
16 ~~wildlife habitat in each state vehicular recreation area each year~~
17 ~~in order to determine whether the soil conservation standards and~~
18 ~~habitat protection programs are being met.~~

19 ~~(d)–~~

20 (2) Upon a determination that the soil conservation standards
21 and habitat protection plans are not being met in any portion of
22 any state vehicular recreation area the division shall temporarily
23 close the noncompliant portion to repair and prevent accelerated
24 erosion, until the soil conservation standards are met.

25 ~~(e)–~~

26 (3) Upon a determination that the soil conservation standards
27 cannot be met in any portion of any state vehicular recreation
28 area the division shall close and restore the noncompliant portion
29 pursuant to Section 5090.11.

30 ~~(f) The division shall not fund trail construction unless the trail~~
31 ~~is capable of complying with the conservation specifications~~
32 ~~prescribed in subdivisions (b) and (g). The division shall not fund~~
33 ~~trail construction where conservation is not feasible.~~

34 ~~(g)–~~

35 (c) (1) The division shall make an inventory of wildlife
36 populations and their habitats in each state vehicular recreation
37 area and shall prepare a wildlife habitat protection program to
38 sustain a viable species composition specific to each state
39 vehicular recreation area by July 1, 1989.

40 ~~(h)–~~

(2) If the division determines that the habitat protection program is not being met in any portion of any state vehicular recreation area, the division shall close the noncompliant portion temporarily until the habitat protection program is met.

~~(i)–~~

(3) If the division determines that the habitat protection program cannot be met in any portion of any state vehicular recreation area, the division shall close and restore that noncompliant portion pursuant to Section 5090.11.

~~(j)–~~

(d) The division shall monitor the condition of soils and wildlife habitat in each state vehicular recreation area each year in order to determine whether the soil conservation standards and habitat protection programs are being met.

(e) The division shall not fund trail construction unless the trail is capable of complying with the conservation specifications prescribed in subdivisions (b) and (c). The division shall not fund trail construction where conservation is not feasible.

(f) The division shall monitor and protect cultural and archaeological resources within the state vehicular recreation areas.

~~SEC. 2.—~~

SEC. 6. Section 21706 of the Public Utilities Code is amended to read:

21706. The division shall require that every project submitted for funding from the Aeronautics Account in the State Transportation Fund shall be consistent with the California Aviation System Plan. Applications for funding shall be processed in accordance with the procedures adopted by the commission. In determining the priorities of projects, the division shall, and the transportation planning agencies may, utilize the methodology adopted by the commission for determining the priorities of projects that the commission selects for allocation pursuant to Sections 21683 and ~~21638.2~~ 21683.2 and the procedures adopted by the commission.

~~SEC. 3.—~~

SEC. 7. Section 140.3 of the Streets and Highways Code is amended to read:

140.3. (a) For the purposes of this section, the following terms have the following meanings:

(1) (A) “Mobile equipment” means devices owned by the department by which any person or property may be propelled, moved, or drawn on or off highway and that are used for employee transportation or material movement, or for construction or maintenance work relating to transportation, including, but not limited to, passenger vehicles, heavy duty trucks, boats, trailers, motorized construction equipment, and “slip-in” accessories or attachments that are used by more than one functional unit.

(B) “Mobile equipment” does not include any of the following:

- (i) Office equipment, computers, and any other stationary, nonmovable, and integral part of a transportation facility.
- (ii) Passenger vehicles used to transport the public.
- (iii) Aircraft or related aeronautics equipment.
- (iv) Rolling stock used for intercity rail operations.

(2) “Mobile equipment services” includes, but is not limited to, all of the following:

(A) Use of mobile equipment and services, including, but not limited to, the purchase of new vehicles.

(B) Receiving, servicing, and equipping new mobile equipment units.

(C) Assembling components into completed mobile equipment units.

(D) Managing mobile equipment and services, including, but not limited to, payment for fuel and insurance.

(E) Repairing, rehabilitating, and maintaining mobile equipment.

(F) Disposing of used vehicles.

(3) “Mobile equipment services cost recovery” means revenues from assessments charged to the department’s divisions and programs for mobile equipment services, or revenues from charges for equipment services provided to local transportation authorities, including, but not limited to, cost recovery for all of the following:

(A) Salaries and wages.

(B) Facility and inventory improvements.

(C) Capital outlay support projects.

(D) Overhead, depreciation, and operating expenses.

(b) The department, with the approval of the Department of Finance, shall set rates for mobile equipment services. The department shall review its rates on an annual basis and, upon approval by the Department of Finance, shall publish a rate schedule on or before April 30 of each year. The department shall collect mobile equipment services cost recovery.

(c) The Equipment Service Fund is hereby created in the State Treasury. Notwithstanding Section 13340, all money in the fund is continuously appropriated to the department to pay for mobile equipment services.

(d) The net proceeds from mobile equipment services cost recovery shall be deposited in the fund. In addition, any moneys appropriated to the department under the annual Budget Act, or under any other act, for the use of existing mobile equipment or for the purchase of that equipment, and any moneys transferred to the department from any account within the State Transportation Fund for those purposes, may be deposited in the fund.

(e) If the balance remaining in the fund at the end of any fiscal year exceeds the amount allowable for billed central services under the Federal Office of Management and Budget Circular A-87 or *superceding circular*, as determined by the department and the Department of Finance, the balance, ~~less an amount equal to the amount required to provide mobile equipment services for 60 days, shall be refunded to all programs that were assessed mobile equipment service charges during that fiscal year.~~ *shall be treated consistent with the requirements of the Federal Office of Management and Budget Circular A-87 or superseding circular.*

SEC. 8. *Section 285 of the Vehicle Code, as amended by Section 1 of Chapter 836 of the Statutes of 2004, is amended to read:*

285. “Dealer” is a person not otherwise expressly excluded by Section 286 who:

(a) For commission, money, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates or attempts to negotiate, a sale or exchange of an interest in, a vehicle subject to registration, a motorcycle, *snowmobile*, or all-terrain vehicle subject to identification under this code, or a trailer subject to identification pursuant to Section 5014.1, or induces or attempts to induce any person to buy or exchange an interest in a vehicle

1 and, who receives or expects to receive a commission, money,
2 brokerage fees, profit, or any other thing of value, from either the
3 seller or purchaser of the vehicle.

4 (b) Is engaged wholly or in part in the business of selling
5 vehicles or buying or taking in trade, vehicles for the purpose of
6 resale, selling, or offering for sale, or consigned to be sold, or
7 otherwise dealing in vehicles, whether or not the vehicles are
8 owned by the person.

9 *SEC. 9. Section 2250 of the Vehicle Code is amended to read:*

10 2250. The California Highway Patrol in the Department of
11 the California Highway Patrol consists of the following
12 members: the commissioner, the deputy commissioner, assistant
13 commissioners, ~~deputy~~ chiefs, assistant chiefs, captains,
14 lieutenants, sergeants, and officers.

15 ~~SEC. 4.—~~

16 *SEC. 10. Section 4601 of the Vehicle Code is amended to*
17 *read:*

18 4601. (a) Except as otherwise provided in this code, every
19 vehicle registration and registration card expires at midnight on
20 the expiration date designated by the director pursuant to Section
21 1651.5, and shall be renewed prior to the expiration of the
22 registration year. The department may, upon payment of the
23 proper fees, renew the registration of vehicles.

24 (b) Notwithstanding any other provision of law, renewal of
25 registration for any vehicle that is either currently registered or
26 for which a certification pursuant to Section 4604 has been filed
27 may be obtained not more than 75 days prior to the expiration of
28 the current registration or certification.

29 *SEC. 11. Section 24602 of the Vehicle Code is amended to*
30 *read:*

31 24602. (a) A vehicle may be equipped with not more than
32 two red fog taillamps mounted on the rear which may be lighted,
33 in addition to the required taillamps, only when atmospheric
34 conditions, such as fog, rain, snow, smoke, or dust, reduce the
35 daytime or nighttime visibility of other vehicles to less than 500
36 feet.

37 (b) The lamps authorized under subdivision (a) shall be
38 installed as follows:

39 (1) When two lamps are installed, one shall be mounted at the
40 left side and one at the right side at the same level and as close as

1 practical to the sides. When one lamp is installed, it shall be
2 mounted as close as practical to the left side or on the center of
3 the vehicle.

4 (2) The lamps shall be mounted not lower than ~~45~~ 12 inches
5 nor higher than 60 inches.

6 (3) The edge of the lens of the lamp shall be no closer than
7 four inches from the edge of the lens of any stoplamp.

8 (4) The lamps shall be wired so they can be turned on only
9 when the headlamps are on and shall have a switch that allows
10 them to be turned off when the headlamps are on.

11 (5) A nonflashing amber pilot light that is lighted when the
12 lamps are turned on shall be mounted in a location readily visible
13 to the driver.